

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



March 12, 1998

**ALL-COUNTY INFORMATION NOTICE I-16-98****REASON FOR TRANSMITTAL**

- ☒ (X) State Law Change
- ☐ ( ) Federal Law or Regulation Change
- ☐ ( ) Court Order or Settlement Agreement
- ☐ ( ) Clarification Requested by One or More Counties
- ☐ ( ) Initiated by CDSS

**TO: ALL COUNTY WELFARE DIRECTORS  
ALL PUBLIC ADOPTION AGENCIES  
ALL CDSS ADOPTION DISTRICT OFFICES  
ALL COUNTY LICENSING AGENCIES  
ALL COMMUNITY CARE LICENSING REGIONAL MANAGERS**

**SUBJECT: ENACTMENT OF AB 1544 (CHAPTER 793, STATUTES OF 1997)  
IMPLEMENTING KEY CHILD WELFARE SERVICES, ADOPTION  
AND LICENSING PROVISIONS**

This All-County Information Notice is to notify you of the enactment of AB 1544, which makes significant changes in juvenile court dependency, family law statutes, and licensing procedures effective January 1, 1998. These changes will have a profound impact on case planning for children who are court dependents in out-of-home placements and will require major systems changes at the local level to ensure successful implementation.

The provisions of AB 1544 are the cornerstone of an evolving statutory foundation focusing on achieving timely legal permanence for children who are in out-of home care in California. The law reflects a collaborative effort by representatives of the juvenile court, child welfare and adoption services programs, foster parents, and kin caregivers to achieve the ultimate goal of permanence for children with safe and nurturing families committed to them throughout their lives.

AB 1544 revises various sections of the Welfare and Institutions Code [WIC], Family Code [FC], Health and Safety Code [HSC] and Evidence Code (EC) as these statutes pertain to the juvenile court dependency and adoption processes. These statutes are effective as of January 1, 1998. A detailed summary of these statutory changes is enclosed.

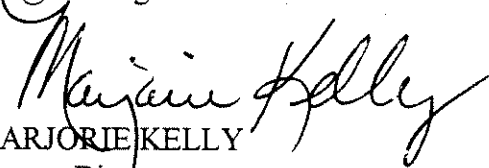
Some of the major areas changed and thereby being implemented by AB 1544 are as follows:

- **Concurrent Services Planning** - a case planning methodology requiring that the child welfare services case plan for every child who is a dependent of the juvenile court, include, in addition to services to reunify the family, those services necessary to achieve legal permanence should reunification fail. To comply with the concurrent services planning provisions of the law, case plans shall include the services to be provided for reunification and the services to be provided concurrently to achieve an alternate legal permanence should efforts to reunify fail. For already existing dependency cases with a reunification plan, the concurrent service track should be developed and incorporated into the case plan as soon as possible and no later than the next scheduled court review hearing date.
- **Paternity** - requires the juvenile court to make formal inquiries into the identity and address of all possible fathers of the child, both presumed and alleged, early in the dependency process and includes notice requirements.
- **Relative Caregivers** - revises the definition of relatives; requires the court to order the parent to disclose the identification of all available maternal and paternal relatives. Caseworkers are authorized to disclose to the relatives the circumstances that resulted in the out-of-home placement of the child. General minimum standards are established for the emergency assessment of suitable relatives prior to placement of the child.
- **Kinship Adoptions** - provides for optional adoption procedures when a child is being adopted by a relative which include a voluntary but legally enforceable kinship adoption agreement regarding post-adoption contact.
- **Siblings** - makes provisions for a foster family home to provide care for up to eight foster children for the purpose of maintaining siblings and half-siblings together. Provision is also made for relatives of the child's half sibling to be exempt from licensing for the purpose of facilitating the placement of a sibling group.
- **Voluntary Relinquishment** - makes provision for advising parents about participating in adoption planning and the option of voluntarily signing a relinquishment at any point during the dependency process.

Major components of AB 1544 are consistent with the intent of the federal "Adoption and Safe Families Act of 1997," which was signed by the President in November 1997. This federal law emphasizes the safety of children and the efficacious planning of legal permanency for children in foster care. Both state and federal statutes now authorize concurrent planning, i.e., working on an alternative permanency plan for the child concurrently with efforts to reunify. State legislation will be introduced during the next legislative session that will conform state law to the new federal requirements as necessary.

Further guidance for implementing provisions of AB 1544 will be forthcoming in March and April through All-County Letters, regulations and training sessions on the new statutes. In the interim, you may contact the following staff if you have questions:

- Implementation of AB1544 and Concurrent Planning issues - See attached Technical Assistance Unit consultants.
- Child Welfare Service case planning and kinship care issues, please contact Teresa Contreras in the Foster Care Branch - Placement Policy Unit at (916) 445-0813 and by e-mail at [tcontrer@dss.ca.gov](mailto:tcontrer@dss.ca.gov)
- Adoption planning issues, please contact Marta Irvin in the Adoptions Branch - Policy Bureau at (916) 445-2803 and by e-mail at [mirvin@dss.ca.gov](mailto:mirvin@dss.ca.gov)
- Licensing issues, please contact Michael Fishel in the Community Care Licensing Division at (916) 445-662 and by e-mail at [mfishel@dss.ca.gov](mailto:mfishel@dss.ca.gov).

  
MARJORIE KELLY  
Deputy Director  
Children and Family Services Division

Enclosures

c: CWDA

## **SUMMARY OF STATUTORY CHANGES**

### **ENACTED BY AB 1544 (CHAPTER 793:97)**

#### **Concurrent Services Planning:**

- ◆ Requires that “When out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail” [WIC Section 16501.1(f)(9)].
- ◆ Requires that these services and their status to achieve legal permanency be addressed in the social study and subsequent court reports [WIC Sections 358.1(b), 366.21(e) & 366.22(a)].
- ◆ Clarifies that evidence of including in the case plan services to achieve permanency, providing such services or placing the child in a home willing to adopt the child cannot be deemed, in and of itself, a failure to provide reasonable efforts to reunify the family [WIC Sections 366.21(e),(f) and (g) & 366.22(a)].

#### **Paternity:**

- ◆ Requires the juvenile court to inquire of the mother and any other appropriate person as to the identity and address of all presumed or alleged fathers at the detention hearing or soon thereafter [WIC Section 316.2(a)].
- ◆ Requires that all identified fathers be notified of the juvenile court proceedings and the potential for termination of parental rights [WIC Section 316.2(b)].
- ◆ Provides that the juvenile court shall have exclusive jurisdiction in actions to establish a father-child relationship, once the child is under the jurisdiction of the juvenile court [WIC Section 316.2(e)].
- ◆ Directs the court to ensure the provision of reunification services to the statutorily presumed father, and allows it to offer services to biological fathers if such services would benefit the child [WIC Section 361.5(a)].

#### **Family Reunification Services:**

- ◆ Allows the court to forgo ordering family maintenance or family reunification services in circumstances where the parent or guardian has advised the court that he or she does not wish to receive such services. Requires that such a parent be represented by counsel and sign a waiver of services form which will be developed by the Judicial Council [WIC Section 361.5(b)(13)].

- ◆ Clarifies that the court shall not order child welfare services for the child and the child's parents in circumstances where the parent has relinquished the child for adoption [WIC Section 361.5(a)].

#### **Definition of Relatives:**

- ◆ Defines the term "relative" as "*an adult who is related to the **child or the child's half-sibling** by blood or affinity, including all relatives whose status is preceded by the words 'step,' 'great,' 'great-great,' or 'grand,' or the spouse of any of these persons, even if the marriage was terminated by death or dissolution.*" (New language in bold.) [WIC Section 319(d), FC Section 8714.7 and HSC Section 1505(k)].

#### **Identification, Search and Assessment of Relatives:**

- ◆ Requires the court to order the parents to disclose the names and addresses of all known maternal and paternal relatives of the child [WIC Section 361.3(a)(8)].
- ◆ Requires the social worker to contact the relatives regarding the possible placement of the child [WIC Section 309(a)].
- ◆ Requires the court to authorize the county social worker to disclose the alleged reasons for the child's detention to relatives who are being assessed for potential placement of the child [WIC Section 361.5(a)(8)].
- ◆ Requires the court to consider the recommendations of the social worker in an emergency assessment of a relative which includes the results of a criminal record check, any prior child abuse allegations and a home visit [WIC Sections 309(d) & 319].
- ◆ Requires the juvenile court at the detention hearing to consider the recommendations of the social worker prior to ordering that the child be placed with a relative [WIC Section 319].
- ◆ Expands the considerations to be made by the court prior to ordering an ongoing placement with a relative [WIC Section 361.3(a)].
- ◆ Establishes criteria for a supplemental petition to remove a child from a placement with a relative [WIC Section 387(a)].
- ◆ Requires the CDSS, in consultation with CWDA and other advocates, to develop guidelines for a model relative placement search and assessment process by January 1, 1999 [WIC Section 16501.1(i)].

### **Kinship Adoption:**

- ◆ Identifies the legislative intent to expedite legal permanency for children by empowering families to care for their own children whenever possible, thereby causing the least amount of disruption to the child and family [FC Section 8714.5(a)(2)].
- ◆ Establishes a kinship adoption option, which modifies and clarifies adoption proceedings when the child is adopted by a relative [FC Sections 8714.5(b) & 8714.7].
- ◆ Allows an adopting relative, the child, and the birth parent or other relatives to enter into a written agreement, known as a “kinship adoption agreement,” for continuing contact or sharing of information between all parties, if the agreement is found by the court to be in the best interest of the child [FC Section 8714.7].
- ◆ Specifies that the court may not set aside an adoption, or rescind actions leading to the adoption because of any party’s failure to comply with the kinship adoption agreement [FC Section 8714.7(k)].
- ◆ Requires that prior to any court action to modify or terminate the kinship adoption agreement, the parties must attempt to resolve the dispute through mediation. [FC Section 8714.7(f)].
- ◆ Allows the order of adoption to contain the name the child had before the adoption when the child is adopted by a relative [FC Section 8714.5(g)].

### **Sibling Placements:**

- ◆ Allows the licensing agency to authorize a foster family home to provide care for up to eight children, under specified conditions, for the purposes of keeping siblings or half-siblings together [HSC Section 1505.2]. (Provided that compliance with all conditions pursuant to the requirements of Title 22 - Section 87020, procurement of a fire clearance, are met).
- ◆ Allows the licensing agency to authorize a foster family home to provide care for more than eight children only if the home specializes in the care of sibling groups and placement is solely for the purpose of placing together one sibling group that exceeds 8 children [HSC Section 1505.2]. (Provided that compliance with all conditions pursuant to the requirements of Title 22 - Section 87020, procurement of a fire clearance, are met).
- ◆ Exempts from licensure certain relatives of a child’s half-sibling for the purposes of placement of that child [HSC Section 1505(k)].

### **Relinquishment:**

- ◆ Clarifies that a parent's ability to relinquish a child for adoption, provided an adoption agency will accept the relinquishment, is not limited by the fact that the child is under the jurisdiction of the court [WIC Section 361(b)].
- ◆ Requires the social worker to include in the dispositional social study a discussion of whether the parent was advised of his or her option to relinquish the child and participate in adoption planning [WIC Section 358.1(e)].
- ◆ Requires that the court and all counsel be notified if a child, who is under the jurisdiction of the juvenile court, is relinquished for adoption [FC Section 8700(h)].
- ◆ Provides that no notice of the dependency hearings needs to be provided to parents who have relinquished the child or have denied paternity and have submitted a paternity Waiver of Rights form in which they also waive their right to notice of further hearings [WIC Section 366.23(e)].
- ◆ Restricts a licensed California adoption agency from accepting a relinquishment from an out-of-state parent unless the child is already in the custody of that adoption agency [FC Section 8700(c)].

### **Out-of-State Placements:** (Conforms state statute to federal law)

- ◆ Requires that each periodic review hearing address the continued appropriateness of the out-of-state placement [WIC Section 366(c)].
- ◆ Requires that the county social worker or the staff of the social service agency in the state in which the child has been placed shall visit the child at least every 12 months and submit a report to the court on each visit [WIC Section 16501.1(f)(4)].
- ◆ Requires the case plan to specify the reasons why the placement is in the best interest of the child when the placement is a substantial distance from the parent's home or out of the state [WIC Section 16501.1(f)(7)].

### **Miscellaneous Changes:**

- ◆ Conforms California statute to federal law by requiring the court to consider all permanency planning options, including returning the child home, at subsequent review hearings [WIC Section 366.3(f)].
- ◆ Replaces language previously deleted inadvertently to ensure due process for parents unrepresented by counsel [WIC Section 355(a)].
- ◆ Clarifies when the parent's failure to cooperate with the child welfare services case plan may be used as evidence [EC Section 1228.1].

## ADOPTIONS INITIATIVE TECHNICAL ASSISTANCE UNIT

**Technical Assistance Unit Manager:** *Rob Marvin 916-323-0463*  
*rmarvin@dss.ca.gov*

### Technical Assistance Unit Staff and County Assignments:

<b>RICHARD COSTA</b> 916-263-2129 <i>rcosta@dss.ca.gov</i>	<b>JANE HEHNKE</b> 909-945-3881 <i>jhehnke@compuserve.com</i>	<b>LESLEY ARNOLD</b> 619-688-4451 <i>110362.2431@compuserve.com</i>
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